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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,042	12/27/2001	Maris Vistins	15999	1822

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EXAMINER	
LEE, EDMUND H	

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Office Action Summary	Application No.	Applicant(s)	
	10/034,042	VISTINS, MARIS	
	Examiner	Art Unit	
	EDMUND H. LEE	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) *1-8,10,11,13 and 14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9,12 and 15-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9, 15, and 18 remain rejected under 35 U.S.C. 102(b) as being anticipated by Richardson et al (EP 0672509 A2). Richardson et al teach the claimed article as evident by col 1, lns 19-50; col 2, lns 10-16; col 3, lns 6-10; col 3, ln 55-col 4, ln 16; and figs 1-3.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 12 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al (EP 0672509 A2) as applied to claim 1 above and further in view of Richardson et al (USPN 5524294). The above teachings of Richardson et al (EP 0672509 A2) are incorporated hereinafter. Richardson et al (EP 0672509 A2) do not a third coating. Richardson et al (USPN 5524294) teach dip molding an article such as a glove having more than two coatings (col 4, lns 25-63; col 5, lns 35-40); and using contrasting colors for each coating (col 4, lns 25-63; col 5, lns 35-40). Richardson et al (EP 0672509 A2) and Richardson et al (USPN 5524294) are combinable because they

are analogous with respect to a glove having multiple differently colored coatings. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a third layer as taught by Richardson et al (USPN 5524294) over the first and second coatings of Richardson et al (EP 0672509 A2) in order to form a glove having multiple layers of protection and breach identification.

5. Claims 16,17,19 and 20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al (EP 0672509 A2) as applied to claim 15 above and further in view of Richardson et al (USPN 5524294). The above teachings of Richardson et al (EP 0672509 A2) are incorporated hereinafter. Richardson et al (EP 0672509 A2) do not teach a third film formed on top of the second layer; a third layer comprising either a clear or translucent polymeric film; a third film layer that is in contrast to the second layer; and a fourth layer formed on top of the third layer wherein the fourth layer is either clear or translucent. In regard to a third film formed on top of the second layer, Richardson et al (USPN 5524294) teach an article such as a glove having more than two coatings (col 4, lns 25-63; col 5, lns 35-40); and using contrasting colors for each coating (col 4, lns 25-63; col 5, lns 35-40). Richardson et al (EP 0672509 A2) and Richardson et al (USPN 5524294) are combinable because they are analogous with respect to an article having multiple differently colored coatings. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a third layer on top of the second layer of Richardson et al (EP 0672509 A2) in order to form an article having multiple layers of protection and breach identification. In regard to a third layer comprising either a clear or translucent

polymeric film, such is well-known in the multi-layered art in order to provide protection. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the third layer of Richardson et al (EP 0672509 A2) (modified) clear or translucent in order to provide protection to the article of Richardson et al (EP 0672509 A2). In regard to a third film layer that is in contrast to the second layer, such is taught by the above combination of Richardson et al (EP 0672509 A2) and Richardson et al (USPN 5524294). In regard to a fourth layer formed on top of the third layer wherein the fourth layer is either clear or translucent, such is well-known in the multi-layered art for improved protection and aesthetic appeal. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a clear or translucent fourth layer on top of the third layer of Richardson et al (EP 0672509 A2) (modified) in order to improve protection and aesthetic appeal.

6. Claims 21-24 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al (EP 0672509 A2) in view of Horwege et al (USPN 5881386). In regard to claim 21, Richardson et al (EP 0672509 A2) teach a colored polymer coated film-based article such as a glove or condom (col 1, lns 19-50; col 2, lns 10-16; col 3, lns 6-10; col 3, ln 55-col 4, ln 16; and figs 1-3); a first layer of polymeric film material (col 1, lns 19-50; col 2, lns 10-16; col 3, lns 6-10; col 3, ln 55-col 4, ln 16; and figs 1-3); and a second layer of polymeric material formed on top of the first layer wherein the second layer visually contrasts the first layer (col 1, lns 19-50; col 2, lns 10-16; col 3, lns 6-10; col 3, ln 55-col 4, ln 16; and figs 1-3). However, Richardson et al (EP 0672509 A2) do not teach using polyvinylchloride as the first layer; and using polyurethane as the

second layer. Horwege et al (USPN 5881386) teach a multi-layered article such as a glove having a first layer of polyvinylchloride and a second layer of polyurethane (col 1, lns 27-35). Richardson et al (EP 0672509 A2) and Horwege et al (USPN 5881386) are combinable because they are analogous with respect to multi-layered articles such as gloves. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use polyvinylchloride and polyurethane as the first and second layers of Richardson et al (EP 0672509 A2), respectively, in order to provide a flexible, powder-free article. In regard to claim 22, a third clear or translucent layer over the second layer is well-known in the multi-layered art in order to provide protection. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a clear or translucent third layer to the article of Richardson et al (EP 0672509 A2) in order to provide protection. In regard to claim 23, such is taught by Richardson et al (EP 0672509 A2). In regard to claim 24, such is well-known in the multi-layered art in order to reduce material costs without reducing quality. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the second layer of Richardson et al (EP 0672509 A2) coat less of the article than the first layer of Richardson et al (EP 0672509 A2) in order to reduce material costs without sacrificing quality.

7. Applicant's arguments filed 6/18/04 have been fully considered but they are not persuasive. Applicant argues that Richardson et al do not teach the application of a second coat of elastomer directly on top of the first coat of the present invention. This argument is misplaced because the instant invention is not limited to 1) a second coat

directly on top of the first coat, and 2) elastomer coatings. The instant invention is broad enough to include 1) a separation material between the first and second coatings, and 2) coatings of polymeric material other than elastomers.

In regard to applicant's arguments concerning the obviousness rejection over claims 21-24, applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Richardson et al (USPN 5817365) teach a multi-layered glove having differently colored layers.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571.272.1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EDMUND H. LEE
Primary Examiner
Art Unit 1732

EHL

8/26/04